

STATE OF SOUTH CAROLINA

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

In the Matter of

COVER SHEET

Application of Duke Energy Carolinas, LLC for
Approval of Decision to Incur
Nuclear Generation Pre-Construction CostsDOCKET
NUMBER: 2007-440-E

(Please type or print)

Submitted by: Frank R. Ellerbe, III

SC Bar Number: 1866

Address: Robinson, McFadden & Moore, P.C.
P.O. Box 944
Columbia, SC 29202

Telephone: (803) 779-8900

Fax: (803) 252-0724

Other:

Email: fellerbe@robinsonlaw.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

- ☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously
- ☐ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input checked="" type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input checked="" type="checkbox"/> List of Confidential Documents	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 2007-440-E

In Re:)	DUKE ENERGY
)	CAROLINAS' SECOND
Application of Duke Energy Carolinas, LLC)	SUPPLEMENTAL
For Approval of Decision to Incur Nuclear)	DISCOVERY RESPONSE
Generation Pre-Construction Costs)	AND LIST OF
)	CONFIDENTIAL
)	DOCUMENTS
)	

Pursuant to Order No. 2008-327, Duke Energy Carolinas, LLC, ("Duke Energy Carolinas" or the "Company") supplements its responses to the discovery requests of Intervenor Friends of the Earth (FoE"). As explained in the motion for a protective order filed by Duke Energy Carolinas and the affidavit of Dhiaa Jamil filed with that motion, many of the documents and much of the information requested by FoE is proprietary and confidential. In response to the order of this Commission and in an effort to narrow the issues regarding confidentiality, Duke Energy Carolinas has reviewed the documents it originally offered to produce to FoE under a confidentiality agreement. That review has resulted in Duke Energy Carolinas withdrawing its claim of confidentiality as to some of the documents. The document listing below includes a column headed "Confidential." Documents as to which the claim of confidentiality has been withdrawn are marked "no." The non-confidential documents are being provided to counsel for FoE and parties of record.

The remaining confidential documents are entitled to protection against public disclosure as explained by the motion and affidavit. The North Carolina Utilities Commission ("NCUC") this week agreed with the arguments advanced by Duke Energy Carolinas here and in North Carolina as to the confidentiality issue. The NCUC held during an April 29, 2008 hearing on the Company's application for approval of its decision to incur pre-construction costs for the Lee Nuclear Station that Duke Energy Carolinas' cost estimates for the Lee Nuclear Station are trade secrets that are confidential and protected from public disclosure under North Carolina law. The NCUC's ruling acknowledged that public disclosure of the Company's cost estimate at this time could undermine Duke Energy Carolinas' ability to negotiate the lowest cost for its customers. Duke Energy Carolinas committed to make a public cost estimate for the Lee Nuclear Station once the ongoing cost development and negotiations reached a stage that such public disclosure would not undermine the Company's ability to negotiate the lowest cost for its customers, and the NCUC made this commitment a part of its ruling.

During the evidentiary hearing, the North Carolina Utilities Commission received into evidence under seal a document related to Duke Energy Carolina's cost estimates for the Lee Nuclear Station, and prohibited public disclosure of this confidential document. Duke Energy Carolinas respectfully submits that the Documents designated as "Confidential" in the list below related to cost estimates and cost information for the Lee Nuclear Station are protected from public disclosure under South Carolina law, just as they have been determined to be protected under the laws of North Carolina. Duke Energy Carolinas has offered to make these documents available to

FoE pursuant to a standard confidentiality agreement, as has been executed by the Office of Regulatory Staff. The Company requests that this Commission order that these and similar documents be protected from disclosure on the ground that it would be harmful to Duke Energy Carolinas and its customers if the documents were not protected, due to the status of sensitive and competitive negotiations regarding components of the Lee Nuclear Station.

Following are the specific discovery requests of FoE to which the listed documents are responsive.

Request for documents No. 3. Bates numbers DUKE000150 – DUKE000230

Request for documents No. 4. Bates numbers DUKE000231 – DUKE000266

Request for documents No. 9. Bates numbers DUKE000267 – DUKE000408

Request for documents No. 11. Bates numbers DUKE000409 - DUKE000558

Interrogatory No. 5. Duke Energy Carolinas stands by its original answer to this interrogatory that it does not have the information as requested. However, documents Bates numbered DUKE000559 and DUKE000600 contain confidential rate impact analysis using certain assumptions reflected in the documents. In an effort to be responsive the Company is identifying these documents as responsive to the interrogatory.

Following is the listing of documents described in this filing. It is the intent of the Company to immediately produce the documents as to which it has withdrawn the claim of confidentiality.

DOCUMENT NO.	DATE	DESCRIPTION	CONFIDENTIAL
DUKE000150-154	June 4, 2007	Memo to file from Rounette Nader, Senior Engineer, and Robert Morgan, Project Manager, re: Lee Nuclear Station, updated cost estimate, w attachments.	Yes
DUKE000155-157	April 27, 2007	Letter from Pete Harden of Westinghouse to Ken Rice, Senior Sourcing Specialist, of Duke Energy Corporation. Re: revised offer for services related to AP1000 Plant. (Attachment to June 4 memo to file).	Yes
DUKE000158-165	April 27, 2007	Westinghouse Phase I Offer for AP1000 Plant (Attachment to June 4 memo to file).	Yes
DUKE000166-169	April 13, 2007	Letter from Charles Zappile of Shaw, Stone & Webster to Ken Rice, Senior Sourcing Specialist, of Duke Energy Corp. re: Proposal for Phase I of Lee Nuclear Plant. (Attachment to June 4 memo to file).	Yes
DUKE000170-173	May 30, 2007	Letter from Peter Harden of Westinghouse to Ken Rice, Senior Sourcing Specialist, of Duke Energy Corp. re: Revised offer for Training Development. (Attachment to June 4 memo to file).	Yes
DUKE000174	Undated	Spreadsheet showing calculations relating to Lee Nuclear COLA costs. (Attachment to June 4 memo to file).	Yes
DUKE000175-177	February 21, 2007	Memo and back-up re: cost estimate for Lee Nuclear COLA. (Attachment to June 4 memo to file).	Yes
DUKE000178-198	November 24, 2006	AP 1000 Project Cost Book. (Attachment to June 4 memo to file).	Yes
DUKE000199	Undated	Untitled document containing certain cost calculations relating to Integrated Resource Planning (IRP).	Yes
DUKE000200	Undated	Nuclear Cash flow outlay calculations for Integrated Resource Planning.	Yes
DUKE000201-203	May 25, 2006	IRP Supply Side Manual, AP 1000 Data Sheet	Yes
DUKE000204	Undated	Project Expenditure Schedule, prepared in connection with Integrated Resource Planning.	Yes
DUKE000205-206	November 1, 2005	IRP Supply Side Manual AP 1000 Data Sheet	Yes
DUKE000207	Undated	AP 1000 Overnight Cost calculations prepared in connection with Integrated Resources Planning	Yes

DOCUMENT NO.	DATE	DESCRIPTION	CONFIDENTIAL
DUKE000208	Undated	Cost calculations (2005 dollars) prepared in connection with Integrated Resource Planning	Yes
DUKE000209	August 3, 2005	Emails between Debra Keiser, Engineer Supervisor, and Bryan Dolan, VP Nuclear Plant Development, re: Overnight cost calculations for Integrated Resources Planning	Yes
DUKE000210	November 2, 2006	IRP Supply Side Manual, AP 1000 Data Sheet	Yes
DUKE000211-212	November 14, 2006	Emails between Janice Hager, Managing Director of Integrated Resource Planning, James Northrup, Director of Project Analysis and Special Projects, Debra Keiser, Engineer Supervisor, and Bryan Dolan, VP Nuclear Plant Development, re: elements of cost calculations.	Yes
DUKE000213-218	December 14, 2006	Memo from Rounette Nader, Senior Engineer, to file with attachments, re: changes in cost calculations	Yes
DUKE000219-230	June 2007	IRP Supply Side Manual, AP 1000 Nuclear Data Input, with attachments	Yes
DUKE000231-232	Undated	Estimate of pre-construction costs.	Yes
DUKE000233-236	Undated	Preliminary cost estimate spreadsheets relating to calculation of pre-construction costs.	Yes
DUKE000237	Undated	Worksheet relating to estimate of pre-construction costs.	Yes
DUKE000238-256	December 5, 2007	Memo to file from Carlos Diaz, Contractor, and Robert Morgan, Project Manager, with attachments, re: calculations of pre-construction costs	Yes
DUKE000257-263	January 21, 2008	Memo to file from Carlos Diaz, Contractor, and Robert Morgan, Project Manager, with attachments, re: corrected calculation of pre-construction costs for period 2005 through 2007.	Yes
DUKE000264-266	January 25, 2008	Confidential submission to the North Carolina Utilities Commission re: estimate of pre-construction costs incurred through December 31, 2007	Yes
DUKE000267	April 10, 2007	This document marked in error. It is the non-confidential notice of withdrawal from Southern, which has already been produced.	No

DOCUMENT NO.	DATE	DESCRIPTION	CONFIDENTIAL
DUKE000268	May 16, 2007	Email from Kate Moriarty, Associate General Counsel and Managing Attorney, Duke Energy, to Peter LeJeune, Attorney for Southern, Re: closing of Withdrawal Agreement with Southern	No
DUKE000269-275	May 17, 2007	Partially executed copy of the Withdrawal Agreement	No
DUKE000276	May 16, 2007	Email from attorney Chris Still to Kate Moriarty, Associate General Counsel and Managing Attorney, re: closing of Withdrawal Agreement	No
DUKE000277-278	May 15, 2007	Letter from attorney Chris Still to attorney Peter McLean re: enclosing documents relating to the transaction by which Cherokee Falls Development of SC, LLC transferred its interest in the Cherokee site to Duke Energy Carolinas.	No
DUKE000279-283	May 15, 2007	Special Warranty deed from Cherokee Falls Development to Duke Energy Carolinas.	No
DUKE000284-287	May 15, 2007	Quit Claim deed from Cherokee Falls Development to Duke Energy Carolinas.	No
DUKE000288	May 15, 2007	Certification of Nonforeign Status of Transferor.	No
DUKE000289	May 17, 2007	Substitute Form 1099	No
DUKE000290-294	May 17, 2007	Settlement statement and related schedules	No
DUKE000295-298	May 15, 2007	Seller's Affidavit relating to SC withholding taxes	No
DUKE000299	May 15, 2007	Email from Attorney Still to Attorney McLean re: closing documents	No
DUKE000300-319	May 2007	Drafts of closing documents	No
DUKE000320-322	May 17, 2007	Email exchange between attorneys relating to the closing and recording of documents	No
DUKE000323-324	May 16, 2007	Email exchange between attorneys relating to the closing and pdf of the signature page on the Withdrawal Agreement	No
DUKE000325-331	May 3, 2007	Internal Duke email exchange copying attorney Kate Moriarty, Associate General Counsel and Managing Attorney, re: Southern's calculation of reimbursable expenses due at closing, including schedules showing expenses and calculation of interest.	Yes, protected by attorney-client privilege
DUKE000332-333	April 19, 2007	Email attaching pdf of letter from Rounette Nader, Senior Engineer, of Duke Energy to Faulk of Southern re: reports required because of the withdrawal notice.	No
DUKE000334	May 15, 2007	Email from attorney Still to Kate Moriarty, Associate General Counsel and Managing Attorney, re: draft of Withdrawal Agreement	No

DOCUMENT NO.	DATE	DESCRIPTION	CONFIDENTIAL
DUKE000335-348	May 15, 2007	Draft of Withdrawal Agreement	No
DUKE000349-361	May 17, 2007	Withdrawal Agreement and exhibit. NOTE: This document has been held by the Commission to not be confidential and has already been produced.	No
DUKE000362	May 17, 2007	Termination and Release of Guaranty Agreement in favor of the Southern Company by Duke Energy Carolinas.	No
DUKE000363-367	May 17, 2007	Executed Special Warranty Deed, from Cherokee Falls Development to Duke Energy Carolinas	No
DUKE000368-371	May 17, 2007	Executed Quit Claim Deed, from Cherokee Falls Development to Duke Energy Carolinas	No
DUKE000372-374	May 17, 2007	Affidavit/Agreement regarding liens signed by Cherokee Falls Development.	No
DUKE000375-377	May 16, 2007	Affidavit/Agreement regarding liens signed by Duke Energy Carolinas.	No
DUKE000378	May 15, 2007	Certification of non-foreign status of Transferor.	No
DUKE000379	May 17, 2007	Substitute form 1099.	No
DUKE000380	DUKE000380 was inadvertently skipped during numbering process.		
DUKE000381-384	May 15, 2007	Seller's affidavit re: SC withholding tax.	No
DUKE000385-389	May 17, 2007	Settlement statement re: transaction between Duke Energy Carolinas and Cherokee Falls Development	No
DUKE000390	May 14, 2007	Delaware certificate of good standing for Cherokee Falls Development	No
DUKE000391	May 15, 2007	SC certificate of authority to do business for Cherokee Falls Development	No
DUKE000392-393	May 17, 2007	Consent of sole member of Cherokee Falls Development to transaction with Duke Energy Carolinas	No
DUKE000394	May 17, 2007	Incumbency Certificate regarding officers of Cherokee Falls Development	No
DUKE000395	Undated	Notice regarding Title Insurance	No
DUKE000396-408	May 17, 2007	Title insurance policy issued to Duke Energy Carolinas in connection with the transaction with Cherokee Falls Development.	No
DUKE000409-557	November 15, 2007	Unredacted (confidential) version of The Duke Energy Carolinas 2007 Annual Plan (Integrated Resources Plan)	Yes
DUKE000558	Undated	Renewable Energy Cost Inputs for Duke Energy Carolinas 2007 Annual Plan	Yes
DUKE000559	March 17, 2008	Power Point Slide - Illustrative Customer Rate Impacts (AFUDC) given certain cost and financing assumptions	Yes

DOCUMENT NO.	DATE	DESCRIPTION	CONFIDENTIAL
DUKE000560	March 17, 2008	Power Point Slide - Illustrative Customer Impacts (CWIP) given certain cost and financing assumptions	Yes

Dated this 1st day of May, 2008.

ROBINSON, MCFADDEN & MOORE, P.C.



Frank R. Ellerbe, III
Bonnie D. Shealy
1901 Main Street, Suite 1200
Post Office Box 944
Columbia, SC 29202
fellerbe@robinsonlaw.com
bshealy@robinsonlaw.com
Telephone (803) 779-8900

and

Kodwo Ghartey-Tagoe, VP Legal, State Regulation
Lawrence B. Somers, Associate General Counsel
Duke Energy Corporation
Post Office Box 1006
Charlotte, North Carolina 28201-1006
Telephone: 704-382-4295 or 704-382-8142
kghartey-tagoe@duke-energy.com
lbsomers@duke-energy.com

Counsel for Duke Energy Carolinas, LLC

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2007-440-E**

In the Matter of)

CERTIFICATE OF SERVICE

Application of Duke Energy Carolinas, LLC)
for Approval of Decision to Incur Nuclear)
Generation Pre-Construction Costs For the)
Lee Nuclear Station in Cherokee County)

This is to certify that I, Leslie Allen with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Duke Energy Carolinas, LLC's Second Supplemental Discovery Response and List of Confidential Documents** in the foregoing matter by causing a copy of same to be placed in the United States Mail, postage prepaid, in an envelope addressed as follows:

Nanette S. Edwards, Esquire
C. Lessie Hammonds, Esquire
Office of Regulatory Staff
P.O. Box 11236
Columbia, SC 29211

Scott A. Elliott, Esquire
SC Energy Users Committee
Elliott & Elliott, PA
721 Olive Avenue
Columbia, SC 29205

Robert Guild, Esquire
Friends of the Earth
314 Pall Mall
Columbia, SC 29201

Dated at Columbia, South Carolina this 1st day of May, 2008.



Leslie Allen